



Blackwell Sundby Variance

File No.: VAR13-00001

STAFF REPORT

March 3, 2016

Application Information

Applicant:	William and Cheryl Sundby 2002 5 th St SE Puyallup, WA. 98372	Dan Koval 1215 Regents Blvd, Ste 1-B Fircrest, WA. 98466
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Request:	Variance proposal to construct a single-family residence on a 45,092 SF (1.035 acres) parcel. The proposal requires a variance because there is not an adequate building location on the site outside of wetland buffers and steep slope areas. The proposal is for a 1,600 SF house footprint within a total site development area of 7,405 SF.	
Location:	645 Mt. Everest Lane SW. King County Assessor Parcel: 5706200400, 5706200411 See Vicinity Map (Exhibit 2)	
Existing Land Use:	Undeveloped	

Surrounding Land Uses:

North: Hillside Park (City-owned)

West: Mt. Hood water reservoir, City-owned open space

South: Single-family residences

East: Undeveloped parcels, single-family residences

Zoning: Single Family Suburban (SF-S)

Comprehensive Plan: Low Density Residential

1. Project Description

Proposal to construct one single-family residence on a 45,092 SF (1.035 acres) parcel. The proposal requires a variance because there is not an adequate building location on the site outside of wetland buffers and steep slope areas. The proposal is for a 1,600 SF house footprint within a total site development area of 7,405 SF.

The site contains two Category III wetlands which require a 50-foot buffer per the City's Critical Area Regulations (IMC 18.10.640.C). The proposed development area is located between boundaries of the two wetlands; 10 feet south from the edge of Wetland A and a minimum of 5 feet to the west and north of the Wetland B boundary. The proposal avoids direct wetland impacts. A variance is required where development encroaches by more than 25% of the standard wetland buffer width (IMC 18.10.650.D.2). The proposal would encroach/impact a total of 7,130 SF into wetland buffer area. The total wetland buffer area on the site is approximately 20,872 SF; the proposal would impact 7,130 SF or 34% of the total on-site wetland buffer area. To mitigate for the wetland buffer impacts, the proposal includes 13,742 SF of wetland buffer enhancement and 9,754 SF of wetland enhancement. The proposed wetland and wetland buffer mitigation equates to a 3.3:1 ratio of mitigation to the impact area. The mitigation would enhance all the wetland buffer and wetland areas on the site outside the proposed development area; removing non-native invasive plants and installing native plant species to improve wetland and wetland buffer functions.

The proposal would also reduce the 15-foot building setback required from the edge of the wetland buffer. The northeast corner of the proposed residence would be setback a minimum distance of 5 feet from the edge of the reduced, enhanced Wetland A buffer area. Most of the building is setback 10-15 feet from the wetland buffer edge. Reducing the building setback to the wetland buffer is considered preferable to further reductions to the wetland buffer.

The site slopes down from the southwest to northeast. The slopes on the south part of the site off Mt. Fury Circle incline steeply between 80-110% with a vertical height of 40 to 50 feet. The west part of the site has steep slopes between 30-40%. The City's Critical Area Regulations require buffers and restricts development on slopes greater than 40%. The proposed development area does not encroach into 40% steep slope areas. The proposal would reduce the 50-foot steep slope buffer to 10 feet, with a 15 to 23-foot building setback from the buffer. The residence would maintain a minimum of 25 feet (10-foot buffer plus 15-foot building setback) from the toe of the steep slope, as required for occupied buildings (IMC 18.10.580.A.2). A private side sewer would be installed up the steep slope to connect to public sewer in Mt Fury

Circle SW. Utilities are allowed in steep slope areas, provided a critical area study indicates the alteration would not subject the area to the risk of landslide or erosion (IMC 18.10.580.D.3). The City required a peer review of the geotechnical reports and the proposed steep slope buffer reduction, and the review concluded that proposal provides an adequate factor of safety against deep-seated slope instability (Geotechnical Peer Review, Golder Associates).

The residence would be accessed from a driveway off Mt. Everest Lane SW.

2. Permit Review, Project Benchmarks, Public Comments

- Notice of Application (NOA) was sent to adjacent property owners within 300 feet of the site on January 8, 2014. (Exhibit 11)
- River & Streams Board Meeting on February 4, 2014. The minutes from the River & Streams Board are included as Exhibit 13.
- Code concerns sent May 15, 2014
- Project plans and supporting information re-submitted April 17, 2015
- Geotechnical peer review – July 22, 2015 to September 4, 2015
- Draft SEPA – November 24, 2015
- Revised plan submittal – December 3, 2015
- SEPA Determination issued January 7, 2016
- Variance public hearing notices – Site posted February 9, 2016; notice sent to adjacent property owners and parties of record on February 18, 2016; Issaquah Press legal notice published on February 25, 2016. (Exhibit 11)

Eight (8) public comment letters have been received from 7 parties. The comment letters are included in Exhibit 12.

4. State Environmental Policy Act (SEPA)

A Mitigated Determination of Nonsignificance (MDNS) was issued on January 7, 2016 (Exhibit 14). The comment/appeal period ended January 28, 2016. The Muckleshoot Tribe requested the mitigation plan and then had no further comments. There were no other comments or appeal of the SEPA Determination. The SEPA mitigation measures are listed as recommended project conditions for the variance permit.

5. Variance Criteria (IMC 18.10.430)

The Issaquah Municipal Code, Chapter 18 Land Use Code includes 3 sections of variance criteria: 18.10.430. D – Variance Criteria Established; 18.10.430.E – Reasonable Use Variance Criteria Established; 18.10.430. F – Wetland Buffer Variance. The reasonable use variance criteria (IMC 18.10.430. E) are to be used only if the Hearing Examiner determines a proposal does not meet all the variance criteria listed in section IMC 18.10.430.D – Variance Criteria Established.

IMC 18.10.430.D - Variance Criteria Established:

1. *The variance is in harmony with the purpose and intent of the relevant City ordinances and the Comprehensive Plan;*

The Comprehensive Plan designation for the site is Low Density Residential and the zoning is Single-Family Suburban (SF-S). The primary purpose of the zoning designation is to provide for single family neighborhoods and detached single family homes (IMC 18.06.100.C). The proposed single family residential land use is consistent with the purpose and intent of the Comprehensive Plan and Land Use Code. The Comprehensive Plan and Land Use Code also include policies and standards to protect the environment and to mitigate environmental impacts. The proposed mitigation would meet policies and standards to protect the environment and mitigate for the environmental impacts of the proposal.

2. *The variance shall not constitute a grant of special privilege which would be inconsistent with the permitted uses, or other properties in the vicinity and zone in which the subject property is located;*

The primary purpose of the SF-S zoning designation is to provide for single family neighborhoods and the primary permitted use is detached single family homes. The maximum density allowed in the SF-S zone is 4.5 dwelling units/acre and the minimum lot size is 9,600 SF. The subject site is over an acre in size, much larger than the minimum lot size of the SF-S zone. Surrounding properties are zoned Single-Family Suburban (SF-S), with the exception of City-owned Hillside Park to the north and Mt. Hood water reservoir to the west. There are a couple lots to the east of the site which are currently undeveloped, but most surrounding lots are developed with single family residences.

An adjacent lot, located at 640 Mt. Everest Lane SW, has similar wetland and steep slope constraints and this lot was granted a variance approval in May 2005. However, a residence was not constructed on the parcel during the validity of the variance approval.

The proposed use of the site for a single family residence is consistent with primary permitted use of the underlying SF-S zoning as well as the uses currently developed on adjacent properties. Approval of a variance would not constitute a grant of special privilege. It would allow for the subject property to be developed similar to the existing single family residential uses on adjacent properties.

3. *That such variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity, located in the same zone as the subject property and developed under the same land use regulations as the subject property requesting the variance;*

The subject site contains extensive steep slope areas and 2 Category III wetlands and associated buffers. There is no developable area on the site outside of critical areas and critical area buffers. The critical area code allows for wetland buffers to be reduced by a maximum of 25% of the standard wetland buffer width. However, this buffer reduction would still not provide an adequate building area on the site. A variance from the wetland buffer standards is necessary for development of the site. A variance would allow for construction of a single family residence, the same use rights permitted for other surrounding properties located in the same SF-S zone.

4. *That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated;*

The granting of a variance, to allow for construction of a single-family residence, would not be detrimental to the public welfare or injurious to the property or other improvements in the vicinity. The proposed residential use is similar in size and character to adjacent developed parcels. The proposal has been designed to minimize impacts to critical areas and to mitigate impacts so it would not be injurious to the property or to adjacent properties. Other than the requested variance to wetland buffer widths, the proposed project would conform to applicable City development regulations and standards.

Construction staging on the site would be limited due to the small development area available outside of the critical areas and the need to avoid construction impacts. A neighboring property is accessed off the Mt. Everest Lane SW cul-de-sac. A SEPA mitigation measure requires that construction staging shall not be allowed outside the clearing/grading limits and shall not block the drive to the neighboring property or emergency access on the Mt Everest Lane SW cul-de-sac.

Other concerns have been raised from adjacent property owners regarding drainage coming off the site and the potential impacts of increased stormwater flows resulting from development of the property. There is no City stormwater system available for the development to connect to and the proposal is for a dispersion trench to discharge stormwater at the south edge of Wetland A. The applicant has provided a Preliminary Drainage Report (Exhibit 10). Drainage review will be required with a Building Permit and required stormwater facilities will be determined based on the City's stormwater standards, the *2011 Addendum to the King County Surface Water Drainage Manual*. One of the Core Requirements is that the applicant must demonstrate that onsite drainage facilities and/or flow control BMP's would not create a significant adverse impact to the downhill properties or drainage systems.

5. *That alternative development concepts that comply with the Code provisions to which the variance is requested have been evaluated, and that undue hardship would result if the strict adherence to the Code provisions were required;*

There is no feasible development area on the site outside of critical areas and critical area buffers and therefore the parcel would be undevelopable for a single family residence if strict adherence to current code provisions were required. This would result in undue hardship to the property owner. The main design objectives of the development are to avoid direct impacts to wetlands and steep slope areas, while allowing a reasonable development area for a single family residence. Numerous development alternatives to the proposed project were evaluated prior to determining the current site design.

6. *The variance granted is the minimum amount that will comply with the criteria listed above and the minimum necessary to accommodate the permitted uses proposed by the application, and the scale of the use shall be reduced as necessary to meet this requirement; and*

The overall site area is just over an acre (45,092 SF). The total proposed development area is limited to approximately 7,405 SF of the site, constituting 16% of the total site area. The proposed building site avoids direct impacts to wetlands and steep slope areas and has been

designed to minimize wetland buffer impacts. Impacts to the wetland buffer area would be limited to approximately 34% (7,130 SF out of 20,872 SF) of total on-site wetland buffer area.

The project proposal has been evaluated for “mitigation sequencing” (See Critical Area Study, Section 4, Evergreen Aquatic Resource Consultants); to first avoid and then minimize the extent and scale of the variance request. The only viable building area on the site is a narrow bench located between the two on-site wetlands in the central portion of the site. The proposed building site would allow for access utilizing an existing driveway off Mt. Everest Lane SW. The driveway access is narrow (12-feet wide) and follows existing contours to minimize grading and fill required to support the driveway.

The project site includes 2 legal lots. The proposed residence and development area is limited to the north Lot 1. Lot 2 is comprised of steep slopes ranging between 80-110%. A SEPA mitigation measure requires a Native Growth Protection Easement (NGPE) to be recorded for the site area outside the identified development area to preclude future development and improvements. This would apply to Lot 2 and essentially preclude future development on Lot 2, also functioning to minimize the extent of the subject variance.

7. The need for the variance is not the result of actions of the applicant or property owner.

The variance request is directly related to the physical characteristics of the project site and is not the result of actions taken by the existing or prior property owner.

The subject site includes Lot 1 and 2, Block 8, Assessor’s Plat of Mountain Park Estates. The lots were originally platted in 1969, prior to adoption of critical area regulations, which would have excluded wetlands and steep slope areas from lots or potentially developable areas.

IMC 18.10.430.F – Wetland Buffer Variance: The Hearing Examiner may reduce wetland buffer widths beyond the requirements of IMC 18.10.650 only through review and approval of a variance application. In addition to the variance requirements the applicant must demonstrate that:

1. No direct or indirect, short-term or long-term, adverse impacts to wetlands would result from the proposed buffer reduction: and

The proposal has been specifically designed to avoid direct wetland fill impacts. The total wetland buffer area on the site is approximately 20,872 SF; the proposal would impact 7,130 SF or 34% of the total on-site wetland buffer area. To mitigate for the wetland buffer impacts, the proposal includes 13,742 SF of wetland buffer enhancement and 9,754 SF of wetland enhancement. The proposed wetland and wetland buffer mitigation equates to a 3.3:1 ratio of mitigation to the impact area. The mitigation would enhance all the wetland buffer and wetland areas on the site outside the proposed development area; removing non-native invasive plants and installing native plant species to improve wetland and wetland buffer functions compared to existing conditions.

2. The project includes a wetland and/or wetland buffer enhancement plan using native vegetation which demonstrates that an enhanced buffer will improve the functional attributes of the buffer to provide additional protection for wetlands functions and values and that the new buffer will provide the same level of protection to the wetland as the original buffer.

The project includes a mitigation plan which would enhance all the available wetland buffer and wetland areas on the site outside the proposed development area. The mitigation consists of removing non-native invasive plants and installing native plant species to improve wetland and wetland buffer functions compared to existing conditions.

The Critical Area Report (Evergreen Aquatic Resource Consultants) provides an evaluation of existing wetland buffer functions (Table 1, Section 3) and also the buffer functions that would result with the implementation of the proposed mitigation/enhancement plan (Tables 2 and 3, Section 5). The analysis concludes that the greatest increase or improvement would be to wildlife habitat and screening functions. The improvement is due to removing existing noxious weed species and the enhancement planting with a variety of native tree and shrub species. Because of sloping topography the reduced, enhanced buffer would have a lesser effect on moderating wetland hydroperiods or improving water quality.

Although the proposal would reduce the wetland buffer width, the proposed enhancement would improve functions (primarily habitat functions) compared to existing conditions.

CONCLUSIONS:

The proposed Blackwell-Sundby Variance meets the variance criteria under IMC 18.10.430.D and IMC 18.10.430.F. The proposal is consistent with the Issaquah Comprehensive Plan, Issaquah Land Use Code (Chapter 18), and other applicable development regulations.

6. Recommended Conditions

Based upon the application and submitted plans, the Administration recommends that the Hearing Examiner approve the Blackwell-Sundby Variance, File No. VAR13-00001, as presented in the Staff Report dated March 3, 2016; subject to the following conditions:

SEPA Mitigation Measures

- 1) Construction clearing and grading limits shall be limited to the proposed development area. The remaining site area is wetland, steep slope critical areas and associated buffers and shall be recorded in a Native Growth Protection Easement (NGPE), precluding future development/improvements and protecting existing vegetation. The NGPE shall be recorded on property title prior to final building permit approval.
- 2) Permanent survey stakes shall be set to delineate the boundaries between the Native Growth Protection Easement (NGPE) and the development area, prior to final building permit approval.
- 3) The applicant shall be responsible for providing an adequate area for construction staging. Construction staging shall not be allowed on site outside of approved clearing and grading limits. The construction staging area shall not block the driveway of the neighboring property accessed off the Mt Everest Lane SW cul-de-sac and shall maintain emergency access.

- 4) In order to clearly demarcate the wetland boundary and to minimize encroachment into the wetlands by future residents and pets, the applicant shall install a split rail fence along the wetland boundaries.
- 5) Because of the close proximity of the landscape/yard area to the wetland, the use of fertilizers and herbicides/pesticides could impact water quality and wetland vegetation. To address this impact, future residents shall only use slow-release fertilizers and herbicides/pesticides approved for use in aquatic environments.
- 6) The applicant shall prepare a wetland hydrologic analysis to demonstrate pre-development hydrology to both Wetlands A and B would be maintained. This shall be approved by the Development Services Department prior to issuing construction permits.
- 7) Final wetland/wetland buffer enhancement mitigation plans shall be submitted to include planting densities and performance standards consistent with the King County Critical Areas Mitigation Guidelines. Final mitigation plans shall be approved prior to issuance of building permits.
- 8) To ensure successful installation of the proposed mitigation plantings, the consulting biologist shall verify in writing that the planting has been installed per the approved plan. An as-built plan of the mitigation planting shall be provided prior to final occupancy approval of the building permit.
- 9) A 5-year monitoring/maintenance bond is required for the wetland/wetland buffer mitigation plan; equal to 50% of the cost of plants, installation, and the cost of 5 years of maintenance and monitoring. The bond is required prior to final building permit approval.
- 10) Site-specific building permit plans were not evaluated by the geotechnical study. The applicant shall submit a geotechnical report evaluating specific building and grading plans with submittal of building permits. A structural engineer shall design the house foundation per the geotechnical design criteria. A third-party independent review of the geotechnical report and building plans will be required at the applicant's expense.
- 11) The alignment of the side sewer line shall be reviewed to minimize impacts to trees and existing vegetation and to approve a construction method that minimizes slope disturbance, prior to issuance of construction permits.
- 12) The existing snags within the development area and other large trees that would provide habitat as downed logs shall be placed within the wetland or upland forested area of the site. The number, species and size of downed logs shall be shown on the mitigation plans, required to be approved by the Development Service Department prior to issuance of construction permits.

Recommended Variance Conditions

- 13) A City of Issaquah Building Permit shall be approved prior to commencing clearing, grading, and construction activity.

- 14) Stormwater/drainage review will be required with a Building Permit and required stormwater facilities will be determined based on the City's stormwater regulations, the *2011 Addendum to the King County Surface Water Drainage Manual*. One of the Core Requirements is that the applicant must demonstrate that onsite drainage facilities and/or flow control BMP's would not create a significant adverse impact to the downhill properties or drainage systems.

Exhibits

1. Variance application, dated November 27, 2013, revised April 17, 2015
2. Vicinity Map
3. Site Plans: Site Plan, Civil Plans, Wetland Reduction Plan; dated December 3, 2015
4. Critical Area Study: Wetlands, Evergreen Aquatic Resource Consultants, dated October 16, 2013, revised April 7, 2015
5. Geotechnical Engineering Report: GeoResources LLC, dated June 7, 2013, revised April 3, 2015
6. Geotechnical Peer Review Comments, Golder Associates, dated July 22, 2015
7. Response to Geotechnical Peer Review Comments, Development Engineering PLLC, dated August 22, 2015
8. Geotechnical Peer Review, Golder Associates, dated September 4, 2015
9. Wildlife Habitat Evaluation, Raedeke Associates, dated October 27, 2014
10. Drainage Report, Development Engineering PLLC, dated April 3, 2015
11. Public Notifications
12. Public Comment Letters
13. River & Stream Board Meeting February 4, 2014 minutes
14. SEPA Determination, issued January 7, 2016
15. Variance Staff Report, dated March 3, 2016